

State of Nebraska
Tobacco Product Manufacturer's Certification
Pursuant to Neb. Rev. Stat. § 69-2706 (Reissue 2003)

GENERAL INFORMATION AND DIRECTIONS FOR COMPLETION OF FORM 55B

DEFINITIONS:

- (a) "Brand Family: means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol", "lights", "kings" and "100s", and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.
- (b) "Cigarette" has the same meaning as in Neb. Rev. Stat. § 69-2702(4).
- (c) "Directory" means the listing of all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of Neb. Rev. Stat. § 69-2706 through § 69-2708 (Reissue 2003) and all brand families that are listed in such certifications, except as provided by said statutes.
- (d) "Master Settlement Agreement" has the same meaning as in Neb. Rev. Stat. § 69-2702(5).
- (e) "Participating Manufacturer" has the same meaning prescribed in Section II(jj) of the Master Settlement Agreement defined in Neb. Rev. Stat. § 69-2702(5).
- (f) "Nonparticipating Manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.
- (g) "Qualified Escrow Account" has the same meaning as in Neb. Rev. Stat. § 69-2702(6).
- (h) "Stamping Agent" means a person that is authorized to affix tax stamps to packages or other containers of cigarettes under Neb. Rev. Stat. § 77-2603 or any person that is required to pay the tobacco tax imposed pursuant to Neb. Rev. Stat. § 77-4008 on roll-your-own cigarettes.
- (i) "Tobacco Product Manufacturer" has the same meaning prescribed in Neb. Rev. Stat. § 69-2702(9).
- (j) "Units sold" has the same meaning prescribed in Neb. Rev. Stat. § 69-2702(10).

Who is required to file this Certification?

- Every tobacco product manufacturer that intends to sell cigarettes, including roll-your-own cigarettes, within the State of Nebraska, whether directly or through any distributor, retailer, or similar intermediary.
- Participating manufacturers must complete Parts 1, 2(A), and 6.
- Nonparticipating manufacturers must complete the entire form except Part 2A.

When is the Certification due?

- For manufacturers whose cigarettes are sold in Nebraska, this Certification is due on an annual basis no later than April 30th of each year.

- For manufacturers whose cigarettes are not yet sold in Nebraska, this Certification must be submitted and the manufacture and its brands must be listed on the Directory **before** beginning sales in Nebraska.
- For manufacturers making any changes to their annual Certification or initial Certification, the **supplemental** Certification noting the changes must be submitted at least thirty (30) calendar days **prior** to that change becoming effective.

To whom are Certifications delivered:

The Certification and any supplemental Certification must be delivered to **both** the:

Nebraska Department of Revenue
P.O. Box 94818
Lincoln, NE 68509-4818
Attention: Cliff Thomas
Tax Law Conferee

and

Nebraska Attorney General's Office
Tobacco Enforcement Division
P.O. Box 98920
Lincoln, NE 68509-8920
Attention: Lynne R. Fritz
Assistant Attorney General

- All other correspondence, escrow agreements, bank account statements, packaging samples, and other documents pertaining to the Nebraska Tobacco Product Manufacturer Certificate of Compliance must be sent to the Attorney General's Office.

Records Retention Requirement

Tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for the certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

Compliance with other statutes:

The fact that a tobacco product manufacturer or brand family is listed on the Directory maintained by the Nebraska Department of Revenue merely means that the tobacco product manufacturer and brand family have been approved pursuant to Neb. Rev. Stat. § 69-2706 (Reissue 2003) and does not mean that they are compliant with other State laws applicable to the sale and/or distribution of cigarettes.

INSTRUCTIONS:

Part 1: Manufacturer's Identification.

Every participating and nonparticipating cigarette manufacturer must complete Part 1 A and B.

A nonparticipating cigarette manufacturer must be in full compliance with Neb. Rev. Stat. § 69-2703(2), including all quarterly installment payments required by statute and regulation as issued by the Tax Commissioner.

Part 2: Brand Family Identification.

Only those brand families listed may be included on the Directory.

A. Participating Manufacturers

A participating manufacturer shall update such list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General and the Tax Commissioner.

- If you need additional information regarding the Federal Trade Commission (FTC) approval letter for the health-warning rotation plan, you can contact the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington D.C. 20580, General Information Locator: (202) 326-2222, <http://www.ftc.gov>
- If you need additional information regarding the Center for Disease Control ingredient listing compliance letter, you can contact the Center for Disease Control and Prevention, 1600 Clifton Road, Atlanta, GA 30333, 1-800-311-3435, <http://www.cdc.gov/netinfo.htm>

B. Nonparticipating Manufacturers

A nonparticipating manufacturer shall update such list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General and the Tax Commissioner.

- If you need additional information regarding the health-warning rotation plan or the ingredient compliance letter, please refer to the information above.

Part 4: Nonparticipating Manufacturer Registered Agent.

A. Agent for Service of Process

Every nonparticipating manufacturer shall execute and deliver a supplemental certificate to the Nebraska Attorney General and the Tax Commissioner thirty (30) days prior to the termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of

the appointment of a new agent not less than five (5) days prior to the termination of an existing agency appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the Attorney General and Tax Commissioner within five (5) days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

- (1) **If the nonparticipating manufacturer has appointed an agent for service of process, you must supply a current letter from the registered agent accepting the appointment.**

Part 5: Nonparticipating Manufacturer Qualified Escrow Account.

B. Escrow Deposit/Withdrawal History for Nebraska

Identify: (i) the amount the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in the state during each preceding calendar year; (ii) the amount of and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which the manufacturer ever made escrow payments pursuant to Neb. Rev. Stat. § 69-2703(2), § 69-2708 and all regulations promulgated pursuant thereto. You must attach copies of records of the financial institution confirming the foregoing. **Note:** All withdrawals must comply with Neb. Rev. Stat. § 69-2703(2)(b). Verification of compliance must be provided.

Part 6: Execution by Authorized Designee

The person executing the certification must be an officer or other authorized designee of the tobacco product manufacturer identified in Part 1. Proof of such authorization may be required. The designee's name and title must be clearly printed and the certification must be executed in the presence of an authorized notary public.

NOTE: Incomplete and/or illegible Certificate of Compliance forms and any attachments will be returned.

Nebraska Certificate of Tobacco Master Settlement Agreement, Form 55B

PART 1: TOBACCO PRODUCT MANUFACTURER IDENTIFICATION

For Official Use Only

A. Complete company information below (please type or print):

Company Name	
Physical Address	
Mailing Address	
City/State/Country/Zip Code	County
Telephone Number, Including Area Code	
Fax Number	
E-Mail Address	
Name/Title of Person Completing Report	
Address of Manufacturing Plant(s)	
Name of Factory Manager(s)	
Telephone Number of Factory Manager(s)	
Fax Number of Factory Manager(s)	
If located in the U.S., Manufacturer's Federal Taxpayer Identification Number:	
If located in the U.S., TTB Tobacco Manufacturer's Permit Number:	Expires

B. The tobacco product manufacturer identified above is, as of the date of this certification (check one below):

- ☐ A participating manufacturer (complete Parts 1, 2A, and 6).
- ☐ A nonparticipating manufacturer (complete entire form, except Part 2A).

This form is (check one below):

- ☐ Initial Certification – Manufacturer is not currently listed on the Nebraska Directory of Certified Tobacco Product.
- ☐ Annual Certification – Due April 30 of each year.
- ☐ Supplemental Certification – Change in brands or registered agent.

All manufacturers must update this certification thirty calendar days prior to any addition to or modification of the brand families sold in Nebraska.

PART 2: BRAND FAMILY IDENTIFICATION

A. Participating Manufacturers:

The participating manufacturer identified in Part 1 has the following brand families, each of which the manufacturer affirms are to be deemed its cigarettes for purposes of calculating its payments under the Master Settlement Agreement, in the volume and shares determined pursuant to the Master Settlement Agreement.

Indicate with a check (✓) mark those brands not being sold in current year (attach additional sheets if necessary).

Brand Family Name	Cigarettes or Roll-Your-Own		Brand Family Name	Cigarettes or Roll-Your-Own	
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO
	Cigarettes	RYO		Cigarettes	RYO

- For the above cigarette brand families, provide a copy of the **current** Federal Trade Commission (FTC) approval letter for health-warning rotation plan.
- Provide a copy of the **current** Center for Disease Control (CDC) ingredient listing compliance letter(s) pertaining to the above brands of cigarettes and a statement as to which brand's ingredients were submitted for each approval letter.

B. Nonparticipating Manufacturers:

The nonparticipating manufacturer identified in Part 1 has the following brand families, each of which the manufacturer affirms are to be deemed its cigarettes for purposes of Neb. Rev. Stat. § 69-2703(2).

List all brand families sold in the preceding calendar year and at any time in the current calendar year. Indicate by a check mark (✓) any brand no longer being sold in Nebraska as of the date of this certification. .09 oz. of RYO constitutes one unit (attach additional sheet if necessary).

Brand Family Name	Cigarettes or Roll-Your-Own		Units Sold		Name and address of all previous manufacturers of brand family
	Cigarettes	RYO	in 2005	in 2006	
	Cigarettes	RYO			
	Cigarettes	RYO			
	Cigarettes	RYO			
	Cigarettes	RYO			

- Provide a sample of the packaging of **each** brand family only with the certificate filed with the Nebraska Attorney General's Office.

☐ Check here if previously supplied packaging samples have not changed.

NOTE: If the manufacturer has previously supplied packaging samples to the Nebraska Attorney General's Office and if such packaging has not changed, it is not necessary to provide samples this year.

- If located in the United States, provide a copy of the latest TTB Tobacco Manufacturer Permit.
- For each of the above cigarette brand families, provide a copy of the **current** Federal Trade Commission (FTC) approval letter for health-warning rotation plan.
- Provide a copy of the **current** Center for Disease Control (CDC) ingredient listing compliance letter(s) pertaining to the above brands of cigarettes and a statement as to which brand's ingredients were submitted for each approval letter.

PART 3: NONPARTICIPATING MANUFACTURER STAMPING AGENT

Complete for all distributors selling manufacturer's product(s) into Nebraska to which the nonparticipating manufacturer identified in Part 1 has sold cigarettes and/or RYO tobacco in the last calendar year.

If the nonparticipating manufacturer is selling cigarettes and/or RYO tobacco products directly to wholesalers and retailers for sale in Nebraska, complete for each wholesaler and retailer that purchased your cigarettes and/or RYO tobacco products in the last calendar year (attach additional sheet(s) if necessary).

Name	Address and Phone Number	Identify as a Distributor, Wholesaler, or Retailer	Brand

PART 4: NONPARTICIPATING MANUFACTURER REGISTERED AGENT

A. Registered Agent for Service of Process:

Please certify as follows:

- ☐ The nonparticipating manufacturer identified in Part 1 is domiciled in the State of Nebraska.
- ☐ The nonparticipating manufacturer identified in Part 1 is a non-resident or foreign nonparticipating manufacturer that has registered to do business in the State of Nebraska as a foreign corporation or business entity.
- ☐ The nonparticipating manufacturer identified in Part 1 has appointed and continues to engage the following agent located in the United States for service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of Neb. Rev. Stat. § 69-2703, may be served in any manner authorized by law:

Agent Name		
Company		
Address		
Telephone Number	FAX Number	E-mail Address

Attach a current letter from the registered agent accepting the appointment.

PART 5: NONPARTICIPATING MANUFACTURER QUALIFIED ESCROW ACCOUNT

A. Qualified Escrow Fund Information:

The nonparticipating manufacturer identified in Part 1 has established and continues to maintain the following qualified escrow fund under Neb. Rev. Stat. § 69-2702.

Name of Financial Institution	
Address	
Representative Name and Title	Telephone Number
Escrow Account Number	Nebraska Sub-Account Number
Has the Escrow Agreement been approved by the Attorney General? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Approval Date	

If the escrow agreement has not been approved by the Attorney General, please attach a copy. If the escrow agreement has been approved by the Attorney General, the tobacco product manufacturer identified in Part 1 hereby swears said agreement is still in full force and effect without amendment or modification, or alternatively, a copy of any amendments to said agreement made subsequent to Attorney General approval must be attached.

A nonparticipating manufacturer must also file a current Certificate of Compliance by Nonparticipating Manufacturer Regarding Escrow Payment for the state of Nebraska with the Attorney General's Office pursuant to Neb. Rev. Stat. § 69-2703(2)(c) setting forth the escrow calculation and deposit for the prior year's sales, for eligibility to be listed on the Directory.

B. Escrow Deposit/Withdrawal History for Nebraska (attach additional sheets if necessary):

Date	Deposit	Withdrawal*	Balance
	Total:	Total:	Total:

Please attach copies of records of the financial institution confirming the foregoing.

* Withdrawals must comply with Neb. Rev. Stat. § 69-2703. Verification of compliance must be provided.

PART 6: AFFIDAVIT OF TOBACCO PRODUCT MANUFACTURER

An authorized officer of the tobacco manufacturer **MUST** sign this form and check one box below. This form **MUST** be notarized.

☐ **PARTICIPATING MANUFACTURER:** Under penalty of perjury, I state that the tobacco product manufacturer name in Part 1A, as of the date of this certification, is a participating manufacturer in full compliance with all applicable sections.

I am the authorized designee for the participating manufacturer, as established in the MSA or MSA Amendment by which the participating manufacturer joined the MSA, and I am signing as such.

I understand that the Nebraska Attorney General's Office or the Tax Commissioner may require additional information and/or documentation to determine if applicant qualifies for listing on the Nebraska Directory.

I have examined this certification, including attachments and supporting documents and, to the best of my knowledge and belief, this certification, including attachments and supporting documents, is true, correct, and complete.

☐ **NONPARTICIPATING MANUFACTURER:** Under penalty of perjury, I state that the tobacco product manufacturer named in Part 1A, as of the date of this certification, is a nonparticipating manufacturer in full compliance all applicable sections.

This certification must be signed by a qualified company officer authorized to bind the applicant company. My position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements.

I understand that the Nebraska Attorney General's Office or the Tax Commissioner may require additional information and/or documentation to determine if applicant qualifies for listing on the Nebraska Directory.

I have examined this certification, including attachments and supporting documents and, to the best of my knowledge and belief, this certification, including attachments and supporting documents, is true, correct, and complete.

By signing this affidavit on behalf of the applicant company, I understand that the company is required to comply with state and federal laws concerning the sale of tobacco products.

**sign
here** ▶

Name of Officer of Tobacco Product Manufacturer (Print Name)

Title

Signature of Officer

Date

Subscribed and sworn to this date: _____ City or County of _____

Signature of Notary Public: _____ Notary Commission expires: _____

Mail the completed certificate of compliance to:

Attention: Lynne R. Fritz, Assistant Attorney General
Nebraska Attorney General's Office
P. O. Box 98920
Lincoln, NE 68509-8920

Attention: Cliff Thomas, Tax Law Conferee
Nebraska Department of Revenue
P. O. Box 94818
Lincoln, NE 68509-4818

NOTE: Incomplete and/or illegible Certificate of Compliance forms and any attachments will be returned.